

**VIRGINIA REAL ESTATE BOARD  
INFORMAL FACT-FINDING CONFERENCES  
AUGUST 5, 2004 (9:00 A.M.)**

The Virginia Real Estate Board convened in Richmond, Virginia, for the purpose of holding Informal Fact-Finding Conferences pursuant to the Administrative Process Act.

Florence Daniels and Byrl Phillips Taylor, Board Members, Presided. No other Board members were present

Peter Oppen and Doug Schroder appeared for the Department of Professional and Occupational Regulation.

The conferences were recorded by Inge Snead & Associates, LTD.

Disc=Disciplinary Case  
Lic=Licensing Application

C=Complainant/Claimant  
A=Applicant  
R=Respondent/Regulant  
PB=Principal Broker  
SA=Sales Agent  
Invest=Investigator  
W=Witness

**Participants**

1. Peter Lawrence of Virginia, Inc.  
File Number 2004-03793 (Discp)

Kristopher Hoover – R

2. Frank J. Bonadio  
File Number 2004-04992 (Lic)


Frank Bonadio – A

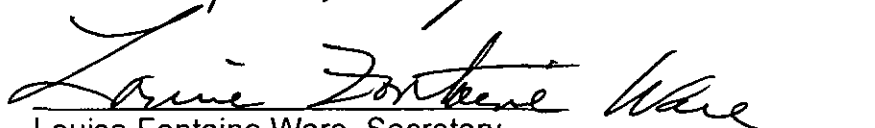
3. Thomas M. Fauntleroy  
File Number 2004-03277 (Discp)

None

The meeting adjourned at 3:45 p.m.

Virginia Real Estate Board

  
R. Schaefer Oglesby, Chairman

  
Louise Fontaine Ware, Secretary

COPY TESTE:

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Custodian of Records

**IN THE  
COMMONWEALTH OF VIRGINIA  
REAL ESTATE BOARD**

Re: Peter Lawrence of Virginia, Inc.

File Number: 2004-03793  
License Number: 0226004011

**SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE**

On July 2, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Peter Lawrence of Virginia, Inc. to the address of record. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was signed for and received.

On August 5, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Kristopher Hoover, Principal Broker, Respondent; Doug Schroder and Peter Oppen, Staff Members; Florence Daniels and Byrl Phillips Taylor, Presiding Board Members.

**RECOMMENDATION**

Based upon the evidence and the IFF, the following is recommended regarding the Count as outlined in the Report of Findings:

Count 1: Code of Virginia

During the IFF, Mr. Hoover testified that Allan and Elaine Abrams are owners of the company but are not actively engaged in the running of the firm's business. The Code only requires owners or officers who actively participate in the brokerage business to have a broker's license. Therefore, we recommend that Count 1 of this file be closed with a finding of no violation of § 54.1-2106.1 of the Code of Virginia.

By: \_\_\_\_\_  
Presiding Board Member  
REAL ESTATE BOARD

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Presiding Board Member  
REAL ESTATE BOARD

Date: \_\_\_\_\_

### **MONETARY PENALTY TERMS**

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF THE LICENSE, CERTIFICATE, OR REGISTRATION UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

VIRGINIA DEPARTMENT OF PROFESSIONAL  
AND OCCUPATIONAL REGULATION  
COMPLIANCE & INVESTIGATIONS DIVISION  
3600 WEST BROAD STREET  
RICHMOND, VIRGINIA 23230-4917

BOARD:	Real Estate Board
DATE:	June 30, 2004
FILE NUMBER:	2004-03793
RESPONDENT:	Peter Lawrence of Virginia, Inc.
LICENSE NUMBER:	0226004011
EXPIRATION:	08-31-2004
SUBMITTED BY:	Peter Oppen
APPROVED BY:	Jim Guffey

## COMMENTS:

Peter Lawrence of Virginia, Inc. was at all times material to this matter a licensed real estate firm in Virginia (No. 0226004011).

Based on the analysis and/or investigation of this matter, there is probable cause to believe the respondent has committed the following violation(s) of the Code of Virginia and/or Board's regulation(s):

## BACKGROUND:

On October 4, 2003, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Christine Martine ("Martine"), Executive Director of the Board, regarding Peter Lawrence of Virginia, Inc.

### 1. Violation of Code of Virginia

#### **Virginia Code § 54.1-2106.1. Licenses required.**

- A. No business entity, other than a sole proprietorship, shall act, offer to act, or advertise to act, as a real estate firm without a real estate firm license from the Board. Such firm may be granted a license in a fictitious name. No business entity shall be granted a firm license unless (i) every member or officer who actively participates in the firm brokerage business holds a license as a real estate broker and (ii) every employee or independent contractor who acts as a salesperson for such business entity holds a license as a real estate salesperson or broker. An individual holding a broker's license may operate a real estate brokerage firm which he owns as a sole proprietorship without any further licensure by the Board, although such individual shall not operate in a fictitious name. A non-broker-owned sole proprietorship shall obtain a license from the Board.
- B. No individual shall act as a broker without a real estate broker's license from the Board. An individual who holds a broker's license may act as a salesperson for another broker. A broker acting as a salesperson may be an owner, member, or officer of a business entity salesperson as defined in subsection C.
- C. No individual shall act as a salesperson without a salesperson's license from the Board. A business entity may act as a salesperson with a separate business entity salesperson's license from the Board. No business entity shall be granted a business entity salesperson's license unless every owner or officer who actively participates in the brokerage business of such entity holds a license as a salesperson or broker from the Board. The Board shall establish standards in its regulations for the names of business entity salespersons when more than one licensee is an owner or officer.

## FACTS

Peter Lawrence of Virginia, Inc. is a licensed Real Estate firm in Virginia. The firm informed the Department of Occupational and Professional Regulation that Allan Abrams and Elaine Abrams are officers of the firm and active participants in the firm's brokerage business (I-1). The Board's licensing staff has determined that Allan Abrams and Elaine Abrams do not hold Virginia Real Estate Broker licenses. Code of Virginia § 54.1-2106.1 requires every member or officer of the firm who actively participates in the firm's brokerage business to hold a Real Estate Broker license.

The firm's actions of allowing a member or officer to actively participate in the firm's brokerage business without holding a Real Estate Broker license is in violation of Code of Virginia § 54.1-2106.1.

### **IN THE COMMONWEALTH OF VIRGINIA REAL ESTATE BOARD**

Re: Frank J. Bonadio  
Application

File Number: 2004-04992

### **SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE**

On June 21, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was sent, via certified mail, to Frank J. Bonadio. The Notice included the Informal Fact-Finding Conference Referral Memorandum, which contained the facts regarding the application. The certified mail was signed for and received.

At Mr. Bonadio's request, the IFF Conference date was rescheduled. On July 2, 2004, notification of the rescheduled IFF Conference was sent by certified mail to Mr. Bonadio. The certified mail was signed for and received.

On August 5, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Frank J. Bonadio, Applicant; Peter Oppen, Staff Member; Florence Daniels and Byrl Phillips Taylor, Presiding Board Members.

## RECOMMENDATION

Based upon the evidence and the IFF, the following is recommended regarding the application requirements as outlined in the IFF Conference Referral Memorandum:

*Mr. Bonadio applied for a broker's license by reciprocity. During the IFF, he did not provide evidence that he had been actively engaged in real estate for 36 of the 48 months preceding his application for licensure. While Bonadio had engaged in some real estate transactions and activity in the past, he did not demonstrate that he had been actively engaged (forty hours a week) in the real estate business to qualify for a license or be granted a waiver of the experience requirement.*

Therefore, I recommend that Frank J. Bonadio's application be denied.

By: \_\_\_\_\_  
Presiding Board Member  
REAL ESTATE BOARD

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Presiding Board Member  
REAL ESTATE BOARD

Date: \_\_\_\_\_



REGULATORY PROGRAMS DIVISION  
APPLICATION REVIEW  
INFORMAL FACT FINDING CONFERENCE REFERRAL MEMORANDUM

To: Adjudication Section, Enforcement Division      Date: 6/17/04

From: Christine Martine      Board: Real Estate

Re: Applicant Name: Frank J. Bonadio

Applied For:      X      License      Certification      Registration

Type Applied For: Broker by Reciprocity  
(as marked on application)

Reviewed By:

Board Member

Christine Martine  
Staff Member

IFF Requested by Whom: Applicant

When: 4/15/04  
(date)

How: letter  
(letter, telephone, etc.)

COMMENTS: MR. BONADIO REQUESTED A WAIVER OF THE EXPERIENCE REQUIREMENT WHEN SUBMITTED HIS APPLICATION. NOW THAT ALL THE INFORMATION HAS BEEN RECEIVED, HIS APPLICATION FILE IS READY FOR AN IFF WHICH SHOULD BE HEARD BY A BOARD MEMBER.

BASIS UPON WHICH APPLICANT MAY NOT MEET BOARD REGULATORY REQUIREMENTS:  
EXPERIENCE VERIFICATION

Pursuant to VA Code or Board Regulation §: 18 VAC 135-20-60.6 and §54.1-2105.B

Facts: (Include name of Court, convicted of, Code §, misdemeanor or felony and date of order.)



Frank J. Bonadio applied for a broker's license by reciprocity on April 5, 2004 and did not meet the experience verification requirements on his application as follows:

Frank J. Bonadio did not provide independent verification of experience showing that he was actively engaged as a real estate salesperson and/or broker for 36 of the 48 months preceding his application for licensure.

**IN THE  
COMMONWEALTH OF VIRGINIA  
REAL ESTATE BOARD**

Re: Thomas M. Fauntleroy

File Number: 2004-03277  
License Number: 0225022038

**SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE**

On July 2, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Thomas M. Fauntleroy to the address of record. The Notice included the Informal Fact-Finding Conference Memorandum, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was signed for and received. On July 27, 2004, additional information received by the Board was sent via first-class mail to Mr. Fauntleroy.

On August 5, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Doug Schroder and Peter Opper, Staff Members; Florence Daniels and Byrl Phillips Taylor, Presiding Board Members. Thomas M. Fauntleroy, Respondent, did not appear.

**RECOMMENDATION**

Based upon the evidence and the IFF, the following is recommended regarding the Counts as outlined in the IFF Memorandum:

Count 1: Code of Virginia

Fauntleroy's failure to inform the Woolards (buyers) and the Ambroses (sellers) that he was acting as a dual agent is in violation of § 54.1-2139(A) of the Code of Virginia. It is clear from the information provided by the Woolards that Fauntleroy was acting as their buyer's broker. By his own admission to the investigator (see Exh. R-1, page 2) Fauntleroy had been assisting them in trying to find a home since the winter of 2002. According to the letter provided by the Ambroses (see Exh. Brd-3, page 2), Fauntleroy also offered advice and counsel to the Ambroses, who had agreed to pay him a commission. Fauntleroy never executed any agency relationship disclosures.

This violation is more than a mere failure to complete the appropriate paper work. Both the buyers and the sellers were surprised to learn of his dual agency and did not learn of this until well after the fact. Fauntleroy did not even make any disclosures orally. Apparently, based on his statement to the investigator (See Exh. R-1, page 5) Fauntleroy thought this undisclosed dual agency relationship was acceptable because he felt he was "impartial and fair to each party". To make this even more aggravating, he placed the buyers in an unknown predicament at the time the transaction began to run into problems. They thought their agent was looking out for their best interests. They did not realize his loyalty was split and he was advising and counseling the sellers as to what was in the sellers' best interest, regarding the issues being raised. Therefore, we recommend that a monetary penalty of \$750.00 and revocation of Fauntleroy's license be imposed.

Count 2: Board Regulation (Effective January 1, 1999)

Fauntleroy's failure to deposit the earnest money by the end of the fifth business day following ratification of the purchase agreement is in violation of Board Regulation 18 VAC 135-20-180.B.1.a. Fauntleroy had the parties sign an addendum (see Exh. C-3) that specifically stated the earnest money deposit would be held in his escrow account. Not only did he not deposit the money within five days of ratification, he never deposited the money into this account at all. Therefore, we recommend that a monetary penalty of \$1,000.00 and revocation of Fauntleroy's license be imposed.

Count 3: Board Regulation (Effective January 1, 1999)

Fauntleroy's failure to disclose to the Ambroses in the offer to purchase that the Woolards' earnest money deposit check was written on insufficient funds is failing to include complete terms and conditions of the real estate transaction in violation of Board Regulation 18 VAC 135-20-300.6. Fauntleroy committed a true disservice to the sellers. He knew that the earnest money deposit check was written on insufficient funds, yet said nothing. He was willing to add a term to the contract Addendum (see Exh. C-3) specifying the deposit would be held in his escrow account but did not feel the need to add any language informing the seller that the check was not good when received or when the check would be made good. He had the opportunity to provide the seller with necessary information but intentionally elected not to do so. Apparently, since he was willing to "cover the check" he did not feel the need to inform the seller or comply with the Board's regulations. As troubling, is the fact Fauntleroy, despite his promise to the

buyer to cover the check, did not have the funds himself to cover it (see Exh. R-7, page 1). When viewed in the context of this case (an undisclosed dual agency and a transaction that was falling apart) his actions are egregious. Therefore, we recommend that a monetary penalty of \$2,500.00 and revocation of Fauntleroy's license be imposed.

Count 4: Board Regulation (Effective January 1, 1999)

Fauntleroy's actions of accepting the Woolards' earnest money deposit check, which was not readily negotiable as a deposit, without acknowledging its acceptance in the contract to purchase is in violation of Board Regulation 18 VAC 135-20-320.4. Fauntleroy took time to complete a contract addendum specifying where the earnest money deposit would be held. He also made sure his financial interest was protected by taking the time to add a term to the addendum regarding his commission. It is significant he did not take time to add a term notifying the seller that the deposit check was not readily negotiable. Therefore, we recommend that a monetary penalty of \$2,000.00 and revocation of Fauntleroy's license be imposed.

By: \_\_\_\_\_  
Presiding Board Member  
REAL ESTATE BOARD

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Presiding Board Member  
REAL ESTATE BOARD

Date: \_\_\_\_\_

#### **MONETARY PENALTY TERMS**

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VIRGINIA DEPARTMENT OF PROFESSIONAL  
AND OCCUPATIONAL REGULATION  
ENFORCEMENT DIVISION  
3600 WEST BROAD STREET  
RICHMOND, VIRGINIA 23230-4917

INFORMAL FACT FINDING CONFERENCE MEMORANDUM

TO: Adjudication Section  
BOARD: Real Estate  
DATE: April 7, 2004 (Revised on May 14, 2004)  
RE: 2004-03277 Thomas M. Fauntleroy

LICENSE, CERTIFICATION, OR REGISTRATION NUMBER:  
0225022038

EXPIRATION DATE OF LICENSE:  
November 30, 2005

INVESTIGATOR: Sherell Queen  
ASSISTANT DIRECTOR: Linda J. Boswell

COMMENTS:

2004-03277 Thomas M. Fauntleroy

BACKGROUND:

On February 12, 2004, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Amy and Jason Woolard, ("Woolard") regarding a contract offer to purchase property known as 908 Marye Street, Fredericksburg, Virginia 22401 from Timothy and Sandra Ambrose, ("The Ambrose's") as seller. (Exh. C-1) Thomas M. Fauntleroy, ("Fauntleroy") Broker, Thomas McKinley Fauntleroy Realty wrote the offer for the Woolard's. The property was listed for sale by the Ambrose's with a sign posted for sale by owner. (Exh. C-2)

On March 28, 2003, Fauntleroy prepared the Woolard's offer to purchase the property. The offer specified on a sales contract addendum that the earnest money deposit in the amount of \$2,000.00, "be held in the Escrow Account of Thomas M. Fauntleroy Realty". Fauntleroy received the earnest money deposit check on March 28, 2003. (Exh. C-3 and C-4)

Fauntleroy failed to notify the Woolard's and the Ambrose's in writing that he would be functioning as a Dual Agent, prior to the ratification of the contract on March 29, 2003.

Fauntleroy failed to deposit the earnest money deposit into an Escrow Account by the end of the fifth business banking day of April 4, 2003, following ratification of the contract on March 29, 2003.

1. Violation of Code of Virginia or Board Regulation (January 01, 1999)

§54.1-2139(A)

FACTS:

Fauntleroy failed to obtain written consent from the Woolard's and the Ambrose's to act as a dual representative. (Exh. C-1)

Fauntleroy did not inform the Woolard's and the Ambrose's that he was acting as a dual agent until after the purchase agreement was signed. (Exh. C-1)

2. Violation of Code of Virginia or Board Regulation (January 01, 1999)

18 VAC 135-20-180(B)(1.a)

FACTS:

Fauntleroy failed to deposit the earnest money deposit received on March 28, 2003, into an Escrow Account by the end of the fifth business banking day of April 4, 2003, following ratification of the purchase agreement on March 29, 2003.

2004-03277 Thomas M. Fauntleroy

Fauntleroy never deposited the earnest money deposit check in the amount of \$2,000.00 received on March 28, 2003, into an Escrow Account. Fauntleroy knew that Woolard had written him a bad check for the earnest money deposit and therefore, did not make the deposit. (Exh. R-1 and R-7)

3. Violation of Code of Virginia or Board Regulation (January 01, 1999)

18 VAC 135-20-300(6)

FACTS:

Fauntleroy failed to include complete terms and conditions of the real estate transaction in the offer to purchase agreement. (Exh. C-2 and C-3)

Fauntleroy did not disclose to the Ambrose's that the earnest money deposit check of \$2,000.00 received on March 28, 2003, from Woolard, was a bad check. Fauntleroy did have knowledge that the earnest money deposit check of \$2,000.00 received by Woolard would not have cleared the bank if he deposited the check upon ratification of the contract on March 29, 2003. (Exh. R-1 and R-7)

4. Violation of Code of Virginia or Board Regulation (January 01, 1999)

18 VAC 135-20-320(4)

FACTS:

Fauntleroy did accept an earnest money deposit check for \$2,000.00 on March 28, 2003, from Woolard, that was not readily negotiable as a deposit on a contract to purchase. Fauntleroy did not acknowledge the acceptance of such note in the purchase agreement. (Exh. C-2, C-4, R-1, and R-7)

Fauntleroy did not disclose to the Ambrose's that the earnest money deposit check of \$2,000.00 received on March 28, 2003, from Woolard, was a bad check. Fauntleroy did have knowledge that the earnest money deposit check of \$2,000.00 received by Woolard would not have cleared the bank if he deposited the check upon ratification of the contract on March 29, 2003. (Exh. R-1 and R-7).

**STATE AND LOCAL GOVERNMENT  
CONFLICT OF INTEREST ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT  
for Officers and Employees of State Government**

1. Name: Byrl Phillips Taylor
2. Title: Presiding Board member
3. Agency: Real Estate Board
4. Transaction: Informal Fact-Finding Conferences on 8-5-04
5. Nature of Personal Interest Affected by Transaction: \_\_\_\_\_

6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Byrl Phillips Taylor  
Signature

8-5-04  
Date

**STATE AND LOCAL GOVERNMENT  
CONFLICT OF INTEREST ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT  
for Officers and Employees of State Government**

1. Name: Florence Daniels
2. Title: Presiding Officer/Board Member
3. Agency: Real Estate Board
4. Transaction: Informal Fact-Finding Conferences on August 5, 2004
5. Nature of Personal Interest Affected by Transaction: \_\_\_\_\_

6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Florence Daniels  
Signature

August 5, 2004  
Date